

North Bend Municipal Code 5.04.015, Business license required, is hereby amended to be read as follows:

5.04.015 Business license required.

- A. Every person engaging in business within the city during any portion of any taxable year in any business or activity for which a license fee or tax is provided by this chapter ~~shall must apply for and obtain from the finance department a "business license" for such taxable year. On and after the effective date of the ordinance codified in this chapter, no person shall engage in any business activity within the city for which a license fee or tax is imposed by this chapter without first having obtained and being the holder of~~ a valid and subsisting license to do so, to be known as a "business license", issued ~~for such taxable year~~ under the provisions of this chapter ~~as hereinafter provided~~ and having paid the license fee and tax imposed by the taxes, rates and fees schedule adopted by ordinance. Application for the license is made through the Business Licensing Service on forms or systems provided. The total licensing fees due, including the business license registration fee and the Business Licensing Service handling fee established by RCW 19.02.075 shall must accompany the application for the license.
- B. The license ~~shall will~~ expire ~~at the end of each calendar year on the date established by the Business Licensing Service.~~ Each license ~~shall be is~~ personal and nontransferable. In case a business is transacted at two or more separate places by one taxpayer, a separate license ~~shall be is~~ required for each place and a separate registration fee and handling fee shall must be paid for each place that a business license is issued.
- C. All licenses ~~shall will~~ be issued by the Business Licensing Service in coordination with the finance department ~~on forms prescribed and furnished by the department and the department shall keep a register thereof.~~ Each license ~~shall will~~ show the name, and place and character of the business of the taxpayer and such other information as the finance manager shall deem necessary. ~~Said The~~ license ~~shall must~~ at all times be posted in the place of business for which it is issued. When the place of business of a taxpayer is changed, the taxpayer must reapply for the license and pay the appropriate fees as provided for in this chapter, and, upon approval of the change, shall return the license to the finance department and a new license ~~shall will~~ be issued for the new place of business ~~upon payment of the registration fee.~~ No person ~~shall may~~ engage in any business for which a license is required under this section, without being registered and licensed in compliance with the provisions of this section; nor ~~shall may~~ any person holding such business license ~~suffer or~~ allow any other person, ~~with for~~ whom a separate license is required, to operate under or display his license.
- D. The business license must be obtained prior to commencing business within the city and must be renewed and the annual license registration fee paid by ~~January 1st of~~

~~each year thereafter~~ the expiration date established by the Business Licensing Service. The license renewal is made through the Business Licensing Service on forms or systems provided. Failure to renew a license by the expiration date may result in the assessment of the Business Licensing Service late renewal penalty established in RCW 19.02.085. If a license remains delinquent for at least 120 days after the expiration date it will be considered abandoned and will be cancelled. A business whose license has been cancelled must reapply for licensure in order to continue to conduct business in the city.

- E. There ~~shall~~ may be an additional administrative assessment, as established by the taxes, rates and fees schedule adopted by ordinance, imposed from the date the license should have been initially obtained, or renewed as the case may be, if the license is not obtained or renewed in a timely manner. The finance manager may waive the penalty and interest of the administrative assessment if the license is obtained within 30 days of the date it should have been obtained or renewed, if good cause is shown.

North Bend Municipal Code 5.04.020, Exercise of revenue license power, is hereby repealed.

North Bend Municipal Code 5.04.028, Administrative provisions, is hereby amended to be read as follows:

5.04.028 Administrative provisions.

The administrative provisions contained in Chapter 5.05 NBMC shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

North Bend Municipal Code 5.04.030, Definitions, is hereby amended to be read as follows:

5.04.030 Definitions.

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

- A. "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.
- B. "Business and occupation tax" or "gross receipts tax" means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

- C. “Commercial or industrial use” means the following uses of products, including byproducts, by the extractor or manufacturer thereof:
1. Any use as a consumer; and
 2. The manufacturing of articles, substances or commodities.
- D. “Delivery” means the transfer of possession of tangible personal property between the seller and the buyer or the buyer’s representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer’s representative first takes physical control of the property or exercises dominion and control over the property. “Dominion and control” means the buyer has the ability to put the property to the buyer’s own purposes. It means the buyer or the buyer’s representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer’s representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer’s representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (RCW Title 62A) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.
- E. “Digital automated service,” “digital code,” and “digital goods” have the same meanings as in RCW 82.04.192.
- F. “Digital products” means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(b).
- G. “Director” means the city clerk/treasurer of the city or any officer, agent or employee of the city designated to act on the director’s behalf.
- H. Eligible Gross Receipts Tax. The term “eligible gross receipts tax” means a tax which:
1. Is imposed on the act or privilege of engaging in business activities within NBMC [5.04.050](#); and
 2. Is measured by the gross volume of business, in terms of gross receipts, and is not an income tax or value added tax; and
 3. Is not, pursuant to law or custom, separately stated from the sales price; and
 4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and

5. Is a tax imposed by a local jurisdiction, whether within or without the state of Washington, and not by a country, state, province, or any other nonlocal jurisdiction above the county level.

I. Engaging in Business.

1. The term “engaging in business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
2. This section sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the city without having to register and obtain a business license or pay city business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection (I)(1) of this section. If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.
3. Without being all-inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf, constitutes engaging in business and requires a person to register and obtain a business license:
 - a. Owning, renting, leasing, maintaining, or having the right to use, or using tangible personal property, intangible personal property, or real property permanently or temporarily located in the city.
 - b. Owning, renting, leasing, using, or maintaining an office, place of business, or other establishment in the city.
 - c. Soliciting sales.
 - d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
 - e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
 - f. Installing, constructing, or supervising installation or construction of real or tangible personal property.
 - g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 - h. Collecting current or delinquent accounts.
 - i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 - j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

- k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, and veterinarians.
 - l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.
 - n. Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 - p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
 - q. Accepting or executing a contract with the city, irrespective of whether goods or services are delivered within or without the city, or whether the person's office or place of business is within or without the city.
4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the city but the following, it need not register and obtain a business license and pay tax:
- a. Meeting with suppliers of goods and services as a customer.
 - b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of directors member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
 - d. Renting tangible or intangible property as a customer when the property is not used in the city.
 - e. Attending, but not participating in, a "trade show" or "multiple-vendor events." Persons participating at a trade show shall review the city's trade show or multiple-vendor event ordinances.
 - f. Conducting advertising through the mail.
 - g. Soliciting sales by phone from a location outside the city.
5. A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license; provided, that it engages in no other business activities in the city. Such activities do not include those in subsection (I)(4) of this section. The city expressly intends that engaging in business include any activity sufficient to establish nexus for

purposes of applying the tax under the law and the constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus-generating contact or subsequent contacts.

- J. “Extracting” is the activity engaged in by an extractor and is reportable under the extracting classification.
- K. “Extractor” means every person who from the person’s own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. “Extractor” does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.
- L. “Extractor for hire” means a person who performs under contract necessary labor or mechanical services for an extractor.
- M. “Gross income of the business” means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- N. “Gross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- O. “Manufacturing” means the activity conducted by a manufacturer and is reported under the manufacturing classification.
- P. Manufacture, To Manufacture.
 - 1. “Manufacturer” means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for

commercial or industrial use from the person's own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than 20 percent of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire, and not a manufacturer.

2. "To manufacture" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:

- a. The production of special made or custom made articles;
- b. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
- c. Crushing and/or blending of rock, sand, stone, gravel, or ore; and
- d. The producing of articles for sale, or for commercial or industrial use, from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

"To manufacture" shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

Q. "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

R. "Retailing" means the activity of engaging in making sales at retail and is reported under the retailing classification.

S. "Retail service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

1. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for

- sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also includes the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons;
2. Abstract, title insurance, and escrow services;
 3. Credit bureau services;
 4. Automobile parking and storage garage services;
 5. Landscape maintenance and horticultural services but excluding (a) horticultural services provided to farmers and (b) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;
 6. Service charges associated with tickets to professional sporting events; and
 7. The following personal services: physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.
 8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

T. Sale, Casual or Isolated Sale.

1. "Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail," "retail sale," or "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.
2. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

U. Sale at Retail, Retail Sale.

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:
 - a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or
 - b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property

- becomes an ingredient or component of such real or personal property without intervening use by such person; or
- c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or
 - d. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or
 - e. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a “sale at retail” or “retail sale” even though such property is resold or utilized as provided in subsection (U)(1)(a), (b), (c), (d), or (e) of this section following such use.
 - f. Purchases for the purpose of satisfying the person’s obligations under an extended warranty as defined in subsection (U)(7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.
2. “Sale at retail” or “retail sale” also means every sale of tangible personal property to persons engaged in any business activity which is taxable under NBMC [5.04.050\(A\)\(8\)](#).
 3. “Sale at retail” or “retail sale” shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:
 - a. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;
 - b. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of

- earth excepting the mere leveling of land used in commercial farming or agriculture;
- c. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;
 - d. The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term “janitorial services” shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term “janitorial services” does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;
 - e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under Chapter 82.16 RCW;
 - f. The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;
 - g. The installing, repairing, altering, or improving of digital goods for consumers;
 - h. The sale of or charge made for tangible personal property, labor and services to persons taxable under subsections (U)(3)(a), (b), (c), (d), (e), (f), and (g) of this section when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a “sale at retail” or “retail sale” even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (U)(1) of this section and nothing contained in subsection (U)(1) of this section shall be construed to modify this subsection.
4. “Sale at retail” or “retail sale” shall also include the providing of competitive telephone service to consumers.

5. a. “Sale at retail” or “retail sale” shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For purposes of this subsection (U)(5)(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.
- The term “sale at retail” or “retail sale” does not include the sale of or charge made for:
- i. Custom software; or
 - ii. The customization of prewritten software.
- b. i. The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.
- ii. (A) The service described in subsection (U)(5)(b)(i) of this section includes the right to access and use prewritten software to perform data processing.
 - (B) For purposes of this subsection (U)(5)(b)(ii), “data processing” means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.
6. “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, the state of Washington, or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind (public road construction).
7. “Sale at retail” or “retail sale” shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, “extended warranty” means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term “extended warranty” does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of

the agreement is included in the sales price of the tangible personal property covered by the agreement.

8. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to Chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).
9. "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development. (This should be reported under the service and other classification.)
10. "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action. (This should be reported under the service and other classification.)
11. "Sale at retail" or "retail sale" shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:
 - a. Sales in which the seller has granted the purchaser the right of permanent use;
 - b. Sales in which the seller has granted the purchaser a right of use that is less than permanent;
 - c. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and
 - d. Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

A retail sale of digital goods, digital codes, or digital automated services under this subsection (U)(11) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.
12. "Sale at retail" or "retail sale" shall also include the installing, repairing, altering, or improving of digital goods for consumers.

- V. "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in "sale at retail" in subsection (U)(5)(b)(i) of this section, which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.
- W. Services. "Service" means any sale or charge made for personal, business or professional service, including amounts designated as rents, fees, or admissions, not otherwise included within any other tax classification defined herein; provided, that the term "service" excludes retail or wholesale services.
- X. "Taxpayer" means any "person," as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.
- Y. "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.
- Z. Value of Products.
1. The value of products, including byproducts, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or byproducts by the seller.
 2. Where such products, including byproducts, are extracted or manufactured for commercial or industrial use, and where such products, including byproducts, are shipped, transported or transferred out of the city, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article

- extracted or manufactured, including direct and indirect overhead costs. The director may prescribe rules for the purpose of ascertaining such values.
3. Notwithstanding subsection (Z)(2) of this section, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

AA. “Wholesaling” means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

North Bend Municipal Code 5.04.070, Multiple credit when activities take place in one or more cities with eligible gross receipt taxes, is hereby amended to be read as follows:

5.04.070 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.

- A. Persons who engage in business activities that are within the purview of two or more subsections of NBMC [5.04.050](#) shall be taxable under each applicable subsection.
- B. Notwithstanding anything to the contrary herein, if the director finds that the imposition of the city’s tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the city’s tax, and still apply the city tax to as much of the taxpayer’s activities as may be subject to the city’s taxing authority.
- C. To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.
- D. Credit for Persons That Sell in the City Products That They Extract or Manufacture. Persons taxable under the retailing or wholesaling classification with respect to selling products in this city shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (1) with respect to the manufacturing of the products sold in the city, and (2) with respect to the extracting of the products, or the ingredients used in the products, sold in the city. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.
- E. Credit for Persons That Manufacture Products in the City Using Ingredients They Extract. Persons taxable under the manufacturing classification with respect to

manufacturing products in this city shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the city. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

- F. Credit for Persons That Sell within the City Products That They Print, or Publish and Print. Persons taxable under the retailing or wholesaling classification with respect to selling products in this city shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and publishing, of the products sold within the city. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

North Bend Municipal Code 5.04.077, Allocation and apportionment of income when activities take place in more than one jurisdiction, is hereby amended to be read as follows:

5.04.077 Allocation and apportionment of income when activities take place in more than one jurisdiction.

Effective January 1, 2008, gross income, other than persons subject to the provisions of Chapter 82.14A RCW, shall be allocated and apportioned as follows:

- A. Gross income derived from all activities other than those taxed as service or royalties under NBMC [5.04.050](#)(A)(8) shall be allocated to the location where the activity takes place.
- B. In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.
- C. In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:
1. The seller's place of business if the purchaser receives the digital product at the seller's place of business;
 2. If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;
 3. If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

4. If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and
 5. If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050(2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.
- D. If none of the methods in subsection C of this section for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in subsections (C)(1) through (5) of this section, then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection. The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in subsections (C)(1) through (5) of this section are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.
- E. For purposes of subsections (C)(1) through (5) of this section, "receive" has the same meaning as in RCW 82.32.730.
- F. Gross income derived from activities taxed as services and other activities taxed under NBMC [5.04.050](#)(A)(1) shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.
1. The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:
 - a. The individual is primarily assigned within the city;
 - b. The individual is not primarily assigned to any place of business for the tax period and the employee performs 50 percent or more of his or her service for the tax period in the city; or
 - c. The individual is not primarily assigned to any place of business for the tax period, the individual does not perform 50 percent or more of his or her service in any city and the employee resides in the city.
 2. The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of

which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if:

- a. The customer location is in the city; or
 - b. The income-producing activity is performed in more than one location and a greater proportion of the service-income-producing activity is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or
 - c. The service-income-producing activity is performed within the city, and the taxpayer is not taxable in the customer location.
3. If the allocation and apportionment provisions of this subsection do not fairly represent the extent of the taxpayer's business activity in the city or cities in which the taxpayer does business, the taxpayer may petition for or the tax administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income, if reasonable:
- a. Separate accounting;
 - b. The use of a single factor;
 - c. The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
 - d. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

G. The definitions in this subsection apply throughout this section.

1. "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.
2. "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal Internal Revenue Code.
3. "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.
4. "Customer location" means the city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place.
5. "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.
6. "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.
7. "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the

- current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.
8. “Taxable in the customer location” means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.
- H. Assignment or apportionment of revenue under this section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

North Bend Municipal Code 5.04.090, Exemptions, is hereby amended to be read as follows:

5.04.090 Exemptions.

- A. Public Utilities. This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of Chapter [5.06](#) NBMC.
- B. Investments – Dividends from Subsidiary Corporations. This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.
- C. Insurance Business. This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided, further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.
- D. Employees.
1. This chapter shall not apply to any person in respect to the person’s employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of “employee” shall include those persons that are defined in the Internal Revenue Code, as may be hereafter amended.
 2. A booth renter is an independent contractor for purposes of this chapter.

- E. Amounts Derived from Sale of Real Estate. This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of 30 days or longer.
- F. Mortgage Brokers' Third-Party Provider Services Trust Accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.
- G. Amounts Derived from Manufacturing, Selling or Distributing Motor Vehicle Fuel. This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempt under RCW 82.36.440; provided, that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.
- H. Amounts Derived from Liquor, and the Sale or Distribution of Liquor. This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.
- I. Casual and Isolated Sales. This chapter shall not apply to the gross proceeds derived from casual or isolated sales.
- J. Accommodation Sales. This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where:
 - 1. The amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article; and
 - 2. The sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within 14 days to reimburse in kind a previous accommodation sale by the buyer to the seller.
- K. Taxes Collected as Trust Funds. This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

North Bend Municipal Code 5.05.015, Application of chapter stated, is hereby amended to be read as follows:

5.05.015 Application of chapter stated.

The provisions of this chapter shall apply with respect to the taxes imposed under Chapter [5.04](#) NBMC and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

North Bend Municipal Code 5.05.020, Definitions, is hereby amended to be read as follows:

5.05.020 Definitions.

The definitions contained in NBMC [5.04.030](#) shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply:

“Reporting period” means:

1. A one-month period beginning the first day of each calendar month (monthly); or
2. A three-month period beginning the first day of January, April, July or October of each year (quarterly); or
3. A 12-month period beginning the first day of January of each year (annual).

“Return” means any document a person is required by the city to file to satisfy or establish a tax or fee obligation that is administered or collected by the city and that has a statutorily defined due date.

“Successor” means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer’s business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

“Tax year” or “taxable year” means the calendar year.

North Bend Municipal Code 5.05.021, Definitions-References to Chapter 82.32 RCW, is hereby amended to be read as follows:

5.05.021 Definitions – References to Chapter 82.32 RCW.

Where provisions of Chapter 82.32 RCW are incorporated in NBMC [5.05.090](#), “department” as used in the RCW shall refer to the “manager” as defined in NBMC [5.04.030](#) and “warrant” as used in the RCW shall mean “citation or criminal complaint.”

North Bend Municipal Code 5.05.030, Registration/license requirements, is hereby amended to be read as follows:

5.05.030 Registration/license requirements.

A business license as required by NBMC ~~5.04.020-5.04.015~~ must be obtained prior to commencing business within the city.

North Bend Municipal Code 5.05.040, When due and payable-Reporting periods-Monthly, quarterly and annual returns-Threshold provisions or relief from filing requirements-Computing time periods-Failure to file returns, is hereby amended to be read as follows:

5.05.040 When due and payable – Reporting periods – Monthly, quarterly and annual returns – Threshold provisions or relief from filing requirements – Computing time periods – Failure to file returns.

- A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the manager's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.
- B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the manager. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.
- C. Tax returns must be filed and returned by the due date whether or not any tax is owed.
- D. For purposes of the tax imposed by Chapter 5.04 NBMC, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or more than \$5,000 in the current quarter, shall file a return, declare no tax due on their return, and submit the return to the manager. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.
- E. A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.
- F. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event

from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or city or federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or city or federal legal holiday.

- G. If any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the manager is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the manager's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the city by the taxpayer. The manager shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

North Bend Municipal Code 5.05.100, Overpayment of tax, penalty, or interest-Credit or refund-Interest rate-Statute of Limitations, is hereby amended to be read as follows:

5.05.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.

- A. If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the manager determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection B of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.
- B. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the manager discovers that a refund or credit is due.
- C. Refunds shall be made by means of vouchers approved by the manager and by the issuance of a city check or warrants drawn upon and payable from such funds as the city may provide.
- D. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner as provided in subsection C of this section, upon the filing with the manager a certified copy of the order or judgment of the court.

- E. 1. For tax periods before December 31, 2004, the manager shall compute interest at 12 percent on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with the NBMC at that time.
2. For tax periods after December 31, 2004, the manager shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance in accordance with RCW 82.32.050 as it now exists or as it may be amended.
3. If NBMC 5.05.090(B)(2) is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of the ordinance codified in this chapter shall apply.

North Bend Municipal Code 5.05.110, Late payment-Disregard of written instructions-Evasion-Penalties, is hereby amended to be read as follows:

5.05.110 Late payment – Disregard of written instructions – Evasion – Penalties.

- A. If payment of any tax due on a return to be filed by a taxpayer is not received by the manager by the due date, the manager shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.
- B. If the manager determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.
- C. If a citation or criminal complaint is issued by the manager for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.
- D. If the manager finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the manager a license as required by NBMC ~~5.04.020~~, 5.04.015, the manager shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under this subsection if the person who has engaged in business without a license obtains a license prior to being notified by the manager of the need to be licensed.
- E. If the manager determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.

- F. If the manager finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the manager shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.
- G. The penalties imposed under subsections A through E of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.
- H. The manager shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.
- I. For the purposes of this section, “return” means any document a person is required by the city of North Bend to file to satisfy or establish a tax or fee obligation that is administered or collected by the city, and that has a statutorily defined due date.
- J. If incorporation into the North Bend Municipal Code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time the ordinance codified in this chapter is effective shall apply.

North Bend Municipal Code 5.05.120, Cancellation of penalties, is hereby amended to be read as follows:

5.05.120 Cancellation of penalties.

- A. The manager may cancel any penalties imposed under NBMC [5.05.110\(A\)](#) if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer’s control, unable to file or pay by the due date. The manager has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection C of this section.
- B. A request for cancellation of penalties must be received by the manager within 30 days after the date the department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases, the burden of proving the facts rest upon the taxpayer.
- C. The manager may cancel the penalties in NBMC [5.05.110\(A\)](#) one time if a person:
 - 1. Is not currently licensed, and filing returns;
 - 2. Was unaware of its responsibility to file and pay tax; and

3. Obtained business licenses and filed past due tax returns within 30 days after being notified by the department.

D. The manager shall not cancel any interest charged upon amounts due.

North Bend Municipal Code 5.05.140, Administrative appeal, is hereby amended to be read as follows:

5.05.140 Administrative appeal.

Any person, except one who has failed to comply with NBMC [5.05.060](#), aggrieved by the amount of the fee or tax determined, by the manager to be required under the provisions of this chapter, may pay the amount due and appeal from such determination by filing a written notice of appeal with the hearing examiner within 30 days from the date written notice of such amount was mailed to the taxpayer. The hearing examiner shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The hearing shall be conducted in accord with the provisions of Chapter [2.20](#) NBMC. The decision of the hearing examiner shall indicate the correct amount of the fee or tax owing.

North Bend Municipal Code 5.05.200, Public disclosure-Confidentiality-Information sharing, is hereby amended to be read as follows:

5.05.200 Public disclosure – Confidentiality – Information sharing.

- A. For purposes of this section, defined terms shall be as set forth in North Bend’s generally applicable definitions section:
 1. “Disclose” means to make known to any person in any manner whatever a return or tax information.
 2. “Tax information” means:
 - a. A taxpayer’s identity;
 - b. The nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over assessments, or tax payments, whether taken from the taxpayer’s books and records or any other source;
 - c. Whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; or
 - d. Other data received by, recorded by, prepared by, or provided to the city with respect to the determination or the existence, or possible existence, of liability, or the amount thereof, of a person under the city’s tax code for a tax, penalty, interest, fine, forfeiture, or other imposition or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section.

Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material or documents so as to permit its disclosure.

3. "City agency" means every city office, department, division, bureau, board, commission, or other city agency.
4. "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

B. Returns and tax information are confidential and privileged, and except as authorized by this section, neither the director nor any other person may disclose any return or tax information.

C. This section does not prohibit the director from:

1. Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:
 - a. In respect of any tax imposed under Chapter [5.04](#) NBMC, Business and Occupation Tax Code, if the taxpayer or its officer or other person liable under this title is a party in the proceeding; or
 - b. In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;
2. Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to NBMC [5.04.140](#), such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;
3. Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;
4. Disclosing such return or tax information, for official purposes only, to the mayor or city attorney, or to any city agency, or to any member of the city council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

5. Permitting the city's records to be audited and examined by the proper state officer, his or her agents and employees;
6. Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this section;
7. Disclosing any such return or tax information to the proper officer of the Internal Revenue Service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the city;
8. Disclosing any such return or tax information to the United States Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Defense, the Immigration and Customs Enforcement and the Customs and Border Protection agencies of the United States Department of Homeland Security, the United States Coast Guard, the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury, and the United States Department of Transportation, or any authorized representative of these federal agencies or their successors, for official purposes;
9. Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;
10. Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American Industry Classification System or Standard Industrial Classification code of a taxpayer, and the dates of opening and closing of business, except that this subsection may not be construed as giving authority to the city or any recipient to give, sell, or provide access to any list of taxpayers for any commercial purpose;
11. Disclosing such return or tax information that is also maintained by another Washington State or local governmental agency as a public record available for inspection and copying under the provisions of Chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

12. Disclosing such return or tax information to the United States Department of Agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;
13. Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the city for a filed tax warrant, judgment, or lien against the real property;
14. Disclosing to a person against whom the department has asserted liability as a successor under NBMC [5.04.140](#), return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;
15. Disclosing real estate excise tax affidavit forms filed under Chapter [3.20](#) NBMC, Real Estate Excise Tax, in the possession of the city, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;
16. Disclosing such return or tax information to the court or hearing examiner in respect to the city's application for a subpoena if there is probable cause to believe that the records in possession of a third party will aid the director in connection with its official duties under this title or a civil or criminal investigation.

- D. 1. The director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection D. The disclosure must be in connection with the department's official duties under this title, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.
2. Before disclosure of any tax return or tax information under this subsection D, the director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The director may not disclose any tax return or tax information under this subsection D until the time period allowed in subsection (D)(3) of this section has expired or until the court has ruled on any challenge brought under subsection (D)(3) of this section.
3. The person in possession of the data, materials, or documents to be disclosed by the department has 20 days from the receipt of the written request required under subsection (D)(2) of this section to petition the superior court of the county in

which the petitioner resides for injunctive relief. The court must limit or deny the request of the director if the court determines that:

- a. The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;
 - b. The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or
 - c. The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.
4. The director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.
 5. Requesting information under subsection (D)(2) of this section that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.
- E. Service of a subpoena issued by the court or under Chapter [2.20](#), Hearing Examiner, does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the court or under Chapter [2.20](#), Hearing Examiner, may disclose the existence or content of the subpoena to that person's legal counsel.
- F. Any person acquiring knowledge of any return or tax information in the course of his or her employment with the city and any person acquiring knowledge of any return or tax information as provided under subsection (C)(4), (5), (6), (7), (8), (9), or (11) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the city, such person must forfeit such office or employment and is incapable of holding any public office or employment in this city for a period of two years thereafter.

North Bend Municipal Code 5.05.230, Suspension or revocation of business registration license, is hereby amended to be read as follows:

5.05.230 Suspension or revocation of business registration license.

- A. The manager, or designee, shall have the power and authority to suspend or revoke any license issued under the provisions of this chapter. The manager, or designee, shall notify such licensee in writing by certified mail of the suspension or revocation

of his or her license and the grounds therefor. Any license issued under this chapter may be suspended or revoked based on one or more of the following grounds:

1. The license was procured by fraud or false representation of material fact.
2. The licensee has failed to comply with any provision of this title.
3. The licensee has failed to comply with any provisions of the North Bend Municipal Code.
4. The licensee is in default in any payment of any license fee or tax under this title.
5. The licensee or employee has been convicted of a crime involving the business.

- B. Any licensee may, within 30 days from the date that the suspension or revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing a written notice of appeal (“petition”) setting forth the grounds for the appeal. A copy of the petition must be provided by the licensee to the manager and the city attorney on or before the date the petition is filed with the hearing examiner. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in Chapter [2.20](#) NBMC. The hearing examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon, the hearing examiner shall, after appropriate findings of fact, and conclusions of law, affirm, modify, or overrule the suspension or revocation and reinstate the license, and may impose any terms upon the continuance of the license.

No suspension or revocation of a license issued pursuant to the provisions of this section shall take effect until 30 days after the mailing of the notice thereof by the department, and if appeal is taken as herein prescribed the suspension or revocation shall be stayed pending final action by the hearing examiner. All licenses, which are suspended or revoked, shall be surrendered to the city on the effective date of such suspension or revocation.

The decision of the hearing examiner shall be final. The licensee and/or the finance department may seek review of the decision by the superior court of Washington in and for King County within 30 days from the date of the decision. If review is sought as herein prescribed, the suspension or revocation shall be stayed pending final action by the superior court.

- C. Upon revocation of any license as provided in this section, no portion of the license fee shall be returned to the licensee.

North Bend Municipal Code 5.06.020, Registration/business license required, is hereby amended to be read as follows:

5.06.020 Registration/business license required.

No person shall engage in or carry on any business occupation, pursuit, or privilege for which a license fee or tax is imposed by this chapter without having first obtained, and being a holder of, a valid registration/business license as provided under NBMC 5.04.015.

North Bend Municipal Code 5.06.090, Telephone business, is hereby amended to be read as follows:

5.06.090 Telephone business.

“Telephone business” means the provision of network telephone services, as defined in this section. It includes cooperatives or farmer line telephone companies or associations. Telephone business shall include 100 percent of the toll service fees from calls originating and/or billed to subscribers within the city of North Bend.

“Network telephone services” means the provision by any person of access to a telephone network, telephone network switching service, toll service, or provision of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line, or channel, cable, microwave, or similar communication or transmission system.

“Network telephone service” includes the provision of transmitting to and from the site of an Internet service provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmitting system. It also encompasses interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this state if the charge for the service is billed to a person in this state. Network telephone service does not include a provision of competitive telephone service, or the provision of cable television service, or the provision of broadcast services by radio or television stations, nor the provision of Internet service as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the Internet service provider.

“Competitive telephone services” means the provision by any person of telecommunications equipment or apparatus, such as a repair or maintenance service, if the equipment or apparatus is of a type, which can be provided by persons who are not subject to regulation as telephone companies under RCW Title 80, and for which a separate charge is made.

The rate of tax imposed by this chapter on businesses engaged in the telephone business, as established by the taxes, rates and fees schedule adopted by ordinance, shall be levied against the total gross income from such business conducted within the city of North Bend.

Competitive telephone service as hereinabove defined shall be taxed as a retail sale under Chapter [5.04](#) NBMC.

Internet access providers (“ISP”) shall not be deemed to be a “telephone business.”

North Bend Municipal Code 5.06.120, Method of payment, is hereby amended to be read as follows:

5.06.120 Method of payment.

The fee or tax imposed by this chapter shall be due and payable in reporting periods as outlined in NBMC [5.05.040](#).

North Bend Municipal Code 5.06.130, Deductions, is hereby amended to be read as follows:

5.06.130 Deductions.

- A. There may be deducted from the total gross income, upon which the fee or tax is computed, revenues derived from business which the city is prohibited from taxing under the Constitutions or laws of the state of Washington or the United States or any ordinance of the city.
- B. There may be deducted from the total gross income upon which the fee or tax is computed the amount of state excise taxes imposed directly upon persons using the utility services and collected in trust for payment to the state by the utility company.
- C. Activities identified in NBMC [5.06.090](#) and [5.06.100](#) may deduct:
 - 1. That portion of the gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services.
 - 2. Charges by a taxpayer engaging in a telephone business to a telecommunications company, as in RCW 80.04.010, for telephone service, which the purchaser buys for the purpose of resale.
 - 3. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of a customer.
 - 4. Wireless companies that keep their regular books of account on an accrual basis, for credit losses actually sustained by a taxpayer.
- D. The tax imposed in NBMC [5.06.050](#) on cable business shall be offset by any franchise fee paid by a cable business, but only to the extent authorized by the North Bend Municipal Code.

North Bend Municipal Code 5.06.140, Underpayment of tax, interest, and penalty, is hereby amended to be read as follows:

5.06.140 Underpayment of tax, interest, and penalty.

- A. If upon examination of any returns, or from other information obtained by the finance manager, it appears that a tax or penalty less than that properly due has been paid, the finance manager shall assess the additional amount found to be due and shall add thereto interest on the tax only. The finance manager shall notify the person by mail of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the finance manager may provide in writing.
- B. For the purpose of this chapter the rate of interest that may be charged shall be one percent per month of all taxes and fees due.
- C. The finance manager shall not assess, or collect an assessment for, additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were due, except that the finance manager may issue an assessment:
 - 1. Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the finance manager;
 - 2. Against a person that has committed fraud or who misrepresented a material fact;
or
 - 3. Against a person that has executed a written waiver of such limitations.
- D. Penalties will be assessed at the rate identified in NBMC [5.05.110](#).

North Bend Municipal Code 5.06.160, Administrative provisions of Chapter 5.05 NBMC which apply to the provisions of this chapter in its entirety, is hereby amended to be read as follows:

5.06.160 Administrative provisions of Chapter 5.05 NBMC which apply to the provisions of this chapter in its entirety.

The following sections of Chapter [5.05](#) NBMC shall apply in their entirety to this chapter:

- A. NBMC [5.05.020](#), Definitions.
- B. NBMC [5.05.040](#), When due and payable – Reporting periods – Monthly or quarterly – Threshold provisions or relief from filing requirements – Computing time periods – Failure to file returns.
- C. NBMC [5.05.050](#), Payment methods – Mailing returns or remittances – Time extension – Deposits – Recording – Payments – Payment must accompany return – NSF checks.
- D. NBMC [5.05.060](#), Records to be preserved – Examination – Estoppel to question assessment.

- E. NBMC [5.05.070](#), Accounting methods.
- F. NBMC [5.05.110](#), Late payment – Disregard of written instructions – Evasion – Penalties.
- G. NBMC [5.05.120](#), Cancellation of penalties.
- H. NBMC [5.05.130](#), Taxpayer quitting business – Liability of successor.
- I. NBMC [5.05.140](#), Administrative appeal.
- J. NBMC [5.05.150](#), Judicial review of administrative appeal decision.
- K. NBMC [5.05.160](#), Manager to make rules.
- L. NBMC [5.05.180](#), Mailing of notices.
- M. NBMC [5.05.190](#), Tax declared additional.
- N. NBMC [5.05.200](#), Public disclosure – Confidentiality – Information sharing.
- O. NBMC [5.05.210](#), Tax constitutes debt.
- P. NBMC [5.05.220](#), Unlawful actions – Violation – Penalties.
- Q. NBMC [5.05.230](#), Suspension or revocation of business license.
- R. NBMC [5.05.240](#), Closing agreement provisions.
- S. NBMC [5.05.250](#), Charge-off of uncollectible taxes.

North Bend Municipal Code 5.12.020, License-Required-Fee, is hereby amended to be read as follows:

5.12.020 License – Required – Fee.

No person shall open up, conduct, manage, operate, or maintain a cabaret without having a license to do so issued by the city clerk, the annual license fee for which shall be as established by the taxes, rates and fees schedule adopted by ordinance. Such license is in addition to the business license required under NBMC 5.04.015.

North Bend Municipal Code 5.14.020, License required, is hereby amended to be read as follows:

5.14.020 License required.

- A. It is unlawful for any person to conduct, manage or operate an adult cabaret unless such person has been issued a valid and current license from the city to do so, obtained in the manner provided in this chapter.
- B. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult cabaret.
- C. It is unlawful for any entertainer to perform in an adult cabaret unless such person has been issued a valid and current license from the city to do so.

D. It is unlawful for any manager to work in an adult cabaret unless such person has been issued a valid and current license from the city to do so.

E. The licenses required by this chapter are in addition to the business license required under NBMC 5.04.015.

North Bend Municipal Code 5.14.060, Appeal, is hereby amended to be read as follows:

5.14.060 Appeal.

- A. Any person aggrieved by the action of the clerk in refusing to issue or renew any license under this chapter or in temporarily suspending or permanently revoking any license under this chapter shall have the right to appeal such action to the city hearing examiner, or to such other hearing body as may hereafter be established by the city council for the hearing of such appeals, by filing a notice of appeal with the clerk within 10 days of receiving notice of the action from which appeal is taken. The filing of such appeal shall stay the action of the clerk.
- B. The hearing body, upon receipt of a timely notice of appeal, shall set a date for a hearing of such appeal within 30 days from the date of such receipt, unless extended by mutual agreement or for good cause shown. The hearing shall be de novo. The hearing body shall hear testimony, take evidence and may hear oral argument and receive written briefs.
- C. The decision of the hearing body on an appeal from a decision of the clerk shall be based upon a preponderance of the evidence. The burden of proof shall be on the city.
- D. Any person aggrieved by the decision of the hearing examiner or other designated hearing body shall have the right to appeal the decision to the superior court by written appeal filed according to the city's appeal procedures as set forth in Chapter [20.06](#) NBMC as now in effect or as may subsequently be amended. The filing of such an appeal shall stay the decision of the hearing examiner or other designated hearing body.

North Bend Municipal Code 5.14.080, License term-Assignment-Renewals, is hereby amended to be read as follows:

5.14.080 License term – Assignment – Renewals.

- A. There shall be no prorating of the license fees set out in NBMC [5.14.050](#), and such licenses shall expire on December 31st of each year, except that in the event that the

original application is made subsequent to June 30th, the fee shall be as established by the taxes, rates and fees schedule adopted by ordinance for the remainder of said year. Licenses issued under this chapter shall not be assignable.

- B. Application for renewal of licenses issued hereunder shall be made to the clerk no later than 30 days prior to the expiration of adult cabaret licenses, and no later than 14 days prior to the expiration of adult cabaret manager and entertainer licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under this chapter. There shall be assessed and collected by the clerk, an additional charge, computed as a percentage of the license fee, on applications not made on or before said date, as established by the taxes, rates and fees schedule adopted by ordinance.

North Bend Municipal Code 5.14.090, License suspension and revocation-Hearing, is hereby amended to be read as follows:

5.14.090 License suspension and revocation – Hearing.

- A. The clerk may suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact, or for the violation of, or failure to comply with, the provisions of this chapter.
- B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first such violation, 90 days upon the second violation within a 24-month period, and revoked for third and subsequent violations within a 24-month period, not including periods of suspension.
- C. The clerk shall provide at least 10 days' prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the hearing examiner or other designated hearing body, pursuant to NBMC [5.14.060](#), and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. The decision of the clerk shall be stayed during the pendency of any appeal.

North Bend Municipal Code 5.16.020, License-Required, is hereby amended to be read as follows:

5.16.020 License – Required.

No peddler, solicitor, or transient merchant shall sell or offer for sale any goods, wares, or merchandise within the city unless a license therefor shall be secured as provided in this chapter. Such license is in addition to the business license required under NBMC 5.04.015, if the Peddler, Solicitor, or Transient Merchant is required to comply with the requirements of Chapter 5.04 NBMC.

North Bend Municipal Code 5.16.070, Bond, is hereby amended to be read as follows:

5.16.070 Bond.

- A. If any applicant for a license, including the licensee or his employees, agents, or representatives shall be unwilling to wait until such time as the clerk completes his investigation as provided in NBMC [5.16.040](#), and if he desires the issuance of license by the clerk immediately upon application, he may deposit with the city clerk a cash or surety bond as established by the taxes, rates and fees schedule adopted by ordinance, conditional upon the making of the final delivery of the goods ordered or the services to be performed in accordance with the terms of such orders, or failing such delivery or other performance, that the advanced payment on such order be refunded. Upon compliance with this bonding provision, the license may be immediately issued.
- B. Any person aggrieved by the action of any such licensee shall have the right of action on the bond for recovery of money or damages or both. Such bond shall remain on deposit for a period of 90 days after the expiration of such license.

North Bend Municipal Code 5.20.040, Review of application, is hereby amended to be read as follows:

5.20.040 Review of application.

Upon receipt of a completed special event permit application, the city clerk shall refer the same to the appropriate departments for their investigation and review concerning compliance of the proposed special event with the criteria for issuance set forth in NBMC [5.20.050](#). The departments shall forward the results of their investigation and review to the city clerk within 10 working days. The city clerk shall promptly thereafter forward all documentation to the city administrator.

North Bend Municipal Code 5.28.050, License-Requirement-Issuance, is hereby amended to be read as follows:

5.28.050 License – Requirement – Issuance.

If an applicant is licensed by King County, it will not be necessary to pay a license fee to the city. The applicant, however, shall be issued a license by the city clerk and shall comply with all other ordinances of the city, and particularly the business and occupation ordinance. The license issued under this chapter is in addition to the business license required under NBMC 5.04.015 if the person licensed under this chapter is required to comply with Chapter 5.04 NBMC.